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Docket No.: 209466US6PCT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 09/869,164
Applicants: Ryuji ISHIGURO, et al.
Filing Date: June 25, 2001
For: CONTENTS DATA MANAGEMENT METHOD
Group Art Unit: 2164
Examiner: AL HASHEMI, SANA A.

SIR:

Attached hereto for filing are the following papers:

Appeal Brief with Appendices

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Respectfully submitted,

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DOCKET NO: 209466US6PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
RYUJI ISHIGURO, ET AL.	: EXAMINER: AL HASHEMI, SANA A.
SERIAL NO: 09/869,164	:
FILED: JUNE 25, 2001	: GROUP ART UNIT: 2164
FOR: CONTENTS DATA MANAGEMENT METHOD	:

APPEAL BRIEF

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

This is an Appeal Brief of the Final Rejection dated November 14, 2005, which finally rejected Claims 1-3 and 19-33 in the above-identified patent application.

I. REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee Sony Corporation.

II. RELATED APPEALS AND INTERFERENCES

Appellants' legal representative and assignee are aware of no appeals which will directly affect or be directly affected by or have any bearing on the board's decision in this appeal.

III. STATUS OF THE CLAIMS

Claims 1-3 and 19-33 stand finally rejected, and the rejection of Claim 26 is appealed herewith. A clean copy of pending Claims 1-3 and 19-33 is attached in the claims appendix. As Claims 1-3 and 19-33 will stand or fall together, Claim 26 is discussed herein as exemplary of the deficiencies of the rejections of record.

IV. STATUS OF THE AMENDMENTS

After the final Office Action of November 14, 2005, an amendment amending Claims 3, 32, and 33 to place them in better form for appeal was filed on January 13, 2006. The Advisory Action mailed on February 22, 2006, indicated that this amendment would not be entered for purposes of appeal. Specifically, the Advisory Action indicated that the proposed amendment would not be entered because it was filed after the mailing date of a final Office Action, which closes prosecution.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Claim 26 is discussed herein as exemplary of the deficiencies of the rejections of record.

Claim 26 is directed toward an apparatus for managing using condition information corresponding to content data. Fig. 1 shows an exemplary system structure of a music content distribution system. Personal computer 1, which is an exemplary apparatus for managing using condition information, is connected to a plurality of electrical music distribution (EMD) servers through the Internet.

The apparatus of Claim 26 also includes a receiver configured to receive the using condition information described in a first format, the using information indicating usage rules corresponding to the content data. Personal computer 1 receives content and using condition information, indicating the using conditions for the contents.[1] Fig. 7, described below, shows an exemplary embodiment of the apparatus for managing using condition information that includes reception interface for EMD 316.

The apparatus of Claim 26 also includes a converter configured to convert the first format of the using condition information into a second format, the second format being different from the first format. Fig. 4, which is an exemplary diagram of personal computer

[1] Specification, page 11, lines 4-6.

1,[2] shows usage rule conversion unit 139, which converts, to the same format as that of the usage rules stored in usage rule files 162-1 to 162-N recorded in the content database 114, a usage rule for a content purchased from an EMD server.[3] Fig. 7, described below, shows another exemplary embodiment of the apparatus for managing using condition information, which includes reception interface for EMD 316, which performs using condition conversion.

The specification, beginning at page 43, explains unified handling of contents having different formats from a plurality of distributors with reference to Fig. 7.[4] The plurality of EMD servers each distributes using condition information in a unique format (i.e., EMD Server A 4-1 uses a first format, Server B 4-2 uses a second format, and Server X 4-3 uses a third format).[5]

In the personal computer 1, there are installed a comprehensive management unit X 315, for managing comprehensive control of the totality of music contents stored in the HDD 21. This comprehensive management unit X 315 is made up of a reception interface 316 for EMD, a transmission interface for EMD 317 and a driver for PD 318.[6]

The music contents stored in a memory card are encrypted in accordance with an encryption system unique to each music furnishing firm, with the formats for the using condition information or the compression systems also being different, so that no music contents can be transferred on connection directly to other device drivers.[7]

Reproduction application A311 manages the using condition information appended to each music contents. For example, if a limit value for the number of times of reproduction is stated in the using condition information, such that limitations are imposed on the number of times of possible contents reproduction, the reproduction application A311 decrements the

[2] Specification, page 24, line 16.
[3] Specification, page 26, lines 12-16.
[4] Specification, page 43, lines 4-6.
[5] Specification, page 43, lines 11-17.
[6] Specification, page 44, lines 6-10.
[7] Specification, page 44, lines 11-18.

limit value of the number of times of reproduction or duplication by 1 for each reproduction or duplication.[8]

The comprehensive management unit X 315 is an application software, dedicated to the music furnishing company X, and which is furnished with the music contents from the EMD server X 4-3. The comprehensive management unit X 315 also transfers the music contents and the using condition information between it and the device driver (A) 313, device driver (B) 314, reproducing application (A) 311 and the reproducing application (B) 312 to manage the music contents in the personal computer 1 comprehensively. The comprehensive management unit (X) 315 is also able to transfer the music contents it is supervising to the dedicated portable device 6-3 which is the portable music reproduction device.[9]

In receiving the music contents and the using condition information from the reproducing application A311, the reception interface for EMD 316 (an exemplary receiver and converter) performs reciprocal authentication, conversion of the encryption system, conversion of the format for the using condition information etc., appended to the music contents being transferred and conversion of the compression system of the music contents being transferred. The encryption system, using condition information, or the compression system used by the reproducing application A 311 and the reproducing application B 312 is changed to the system used by the comprehensive management unit X 315. The system used by the comprehensive management unit X 315 is referred to in the specification as a unified transfer protocol. The reception interface for EMD 316 transmits the music contents and the using condition information, thus converted to the unified transfer protocol, to the device driver A 313 or the device driver B 314 through the PD driver 318. The reception interface for EMD 316 also transmits the music contents and the using condition information, converted to the unified transfer protocol, to the portable device 6-3 through the PD driver 318.[10]

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[8] Specification, page 45, lines 16-21.
[9] Specification, page 47, line 14 to page 48, line1.
[10] Specification, page 48, line 16 to page 49, 10.

The music contents provided from the EMD server (A) 4-1 and the EMD server (B) 4-2 are once downloaded by the reproducing application (A) 311 and the reproducing application (B) 312, and the encryption system, the compression system, and the using condition information of the music contents are converted to the unified transfer protocol and are transferred to the comprehensive management unit (X) 315. The comprehensive management unit (X) 315 comprehensively supervises the music contents of the contents furnishing companies downloaded from the EMD server (A) 4-1, EMD server (B) 4-2 and from the EMD server (X) 4-3.[11]

As described above, independent Claim 26 relates to an apparatus for managing using condition information corresponding to content data. The apparatus includes a receiver configured to receive the using condition information described in a first format, the using condition information indicating usage rules corresponding to the content data. The apparatus also includes a converter configured to convert the first format of the using condition information into a second format, the second format being different from the first format.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The ground of rejection to be reviewed on appeal is whether independent Claim 26 is anticipated by Benson et al. (U.S. Patent No. 5,845,281, hereinafter Benson) under 35 U.S.C. § 102(b).

VII. ARGUMENTS

Claim 26 is patentable over Benson because, as noted below, the Final Rejection does not teach or suggest every element of Claim 26.

A. WORDS IN THE CLAIMS CANNOT BE IGNORED

[11] Specification, page 49, lines 11—18.

Claim 26 recites, *inter alia*, "a receiver configured to receive said using condition information described in a first format, the using condition information indicating usage rules corresponding to the content data; and a converter configured to convert said first format of said using condition information into a second format, said format being different from the first format."

Claim 26 specifically requires that the format of the using condition information be converted. The Final Rejection, in the Response to Arguments section, states "Benson discloses a means for converting format,"[12] and the Advisory Action States "Benson discloses the method of converting a format."[13] However, Claim 26 does not merely require only a means or method for converting format. Claim 26 recites "a converter configured to convert said first format of said ***using condition information*** into a second format." Benson does not describe or suggest converting the first format of the ***using condition information*** into a second format, different from the first format.

Applicants respectfully submit that it is improper to merely interpret the above-quoted claimed language as "converting format" as is done in the Final Rejection and in the Advisory Action. It is well established that each word of every claim must be given weight. See In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Accordingly, the PTO is called upon to explain how it can reasonably interpret "convert said first format of ***said using condition information*** into a second format, said second format different from the first format" as merely converting format.

B. CONVERSION OF DATA OBJECTS DOES NOT MEET CLAIM LIMITATIONS

[12] Office Action, November 14, 2005, page 4, Response to Arguments.
[13] Advisory Action, continuation of note 3.

The Final Rejection and Advisory action rely on Fig. 4, block 409 to support the pending rejection. Block 409 merely states "data object conversion." The Final Rejection and Advisory Action rely on Col. 6, lines 40-48 of Benson, which merely discloses that format modules 306 can convert the format of ***data objects***. The Final Rejection and Advisory Action rely on Col. 7, lines 53-59 of Benson, which merely discloses "...specifying any format module to be used for converting the format of the ***data object***..." (emphasis added).

1. Content and Using Condition Information are Different

The data object is not the using condition information. The data object does not include using condition information indicating usage rules corresponding to the ***permitted use of the data object***, as is recited in Claim 1.

The specification clearly establishes that using condition information is different than content. As described in the specification, a non-limiting example of "content" is music content.[14] The specification discloses, as a non-limiting example, that using condition information is a limit on the number of times reproduction is allowed for its associated content.[15]

Benson itself establishes that the conditions for usage 42 and the data object 24 are different. Conditions for usage 42, or the usage data file, represent conditions for the use of data object 24.[16] Benson discloses that usage information may comprise "the kind of user who is authorized to use the data object, the price for different usages of the object etc."[17]

C. BENSON DOES NOT TEACH OR SUGGEST CONVERTING THE FORMAT OF USING CONDITION INFORMATION

[14] Specification, page 2, lines 1-3.
[15] Specification, page 45, lines 16-21.
[16] Benson, col. 7, lines 15-18.
[17] Benson, col. 7, lines 64-66.

The Final Rejection only relies on Benson's disclosure of converting the format of the ***data object***, which is different from "using condition information" as discussed above.

Furthermore, Fig. 14, item 1406, only refers to a format module. Format module 1406 includes program code that is necessary to handle ***data objects*** in their native format. Benson does not describe or suggest that format module 1406 converts the first format of the ***using condition information*** into a second format.

In a data packaging program, the format modules are used to convert the format of the data object into a format required by content providers, such as from BMP files to GIF files, ***but not to convert the format of usage conditions***.[18]

Moreover, the Final Rejection relies on Benson's disclosure of "program 35 never stores the ***object data*** in native format in user accessible storage" (emphasis added) to support the position that Benson discloses the claimed "converter configured to convert said first format of said using condition information into a second format, said second format being different from the first format."[19] Benson, by its own admission, is only converting the format of the data object. In user program 35, the usage manager module uses a data object by applying the format of the data object used in the corresponding data packaging program.[20]

Furthermore, reliance on Benson's disclosure of a data packaging program is also misplaced. Benson only discloses that the data packaging program converts the format of the ***data object (not the usage conditions)*** based on specified format code.[21] Converting the format of the ***data object*** does not describe or suggest the claimed "converter configured to convert said first format of s***aid using condition information*** into a second format, said

[18] Benson, col. 6, lines 40-43, col. 7, lines 58-59, and col. 8, lines 12-14.
[19] Office Action, November 14, 2005, page 4-5.
[20] Benson, col. 11, 50-56.
[21] Benson, col. 6, lines 40-43, col. 7, lines 54-64, and 409 of Fig. 4.

second format being different from the first format." (emphasis added). The data object is different than the usage conditions as established above.

Furthermore, if the Final Rejection intends to equate the claim language "format" such that "the format of the using condition information" of Applicants' claims may include an encryption or decryption format, Applicants respectfully submit that this is an improper interpretation of the claims. Applicants' specification clearly distinguishes the format of using condition information from the format of the format of the content data encryption system.[22] Moreover, Fig. 9A of the present application provides an example of a format using condition information, and this example clearly distinguishes the format of using condition information from the format of content data encryption system.

It is well established that while the PTO is to give claim language its broadest "reasonable" interpretation, this does not mean that the PTO can completely ignore the understanding that the artisan would have of the term "format" obtained in light of the specification so as to ascribe a completely different and unknown meaning to "format." See In re Cortright, 165 F.3d 1353, 1358, 49 USPQ 2d 1464, 1467 (Fed. Cir. 1999). ("Although the PTO must give claims their broadest reasonable interpretation, this interpretation must be consistent with the one those skilled in the art would reach.") and In re Okuzawa, 537 F.2d 545, 548, 190 USPQ 464, 466 (CCPA 1976) citing In re Royka, 490 F.2d 981, 984, 180 USPQ 580, 582-83 (CCPA 1974) ("Claims are not to be read in a vacuum, and while it is true they are given the broadest *reasonable* interpretation during prosecution, their terms still have to be given the meaning called for by the specification of which they form a part.").

[22] *See, e.g.*, page 5, line 14 to page 6, line 4, page 6, lines 9-19, page 48, 16 to page 49, line 10, page 52, lines 1-9, and page 9 of the amendment filed on April 4, 2005.

As anticipation of the subject matter of Claim 26 by Benson requires a disclosure in Benson of all the subject matter of Claim 26, and as this has not been shown, reversal of this rejection is believed to be in order.

CONCLUSION

It is believed to be clear that the Final Rejection fails to properly analyze the claimed subject matter, to properly interpret the teachings and fair suggestions of the applied references, and to properly determine the differences between this claimed subject matter and the applied references. Accordingly, it is believed to be clear that there has been no establishment of a proper *prima facie* case of obviousness and that speculation and unfounded motivations have been substituted for facts absent from the record. Under these conditions, it is clear that the rejections offered by the Examiner must be reversed.

Respectfully submitted,

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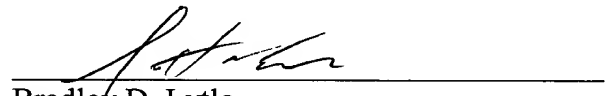

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VIII. CLAIMS APPENDIX

1. An apparatus for managing using condition information corresponding to content data, comprising:

means for receiving said using condition information described in a first format, the using condition information indicating usage rules corresponding to the content data;

means for converting said first format of said using condition information into a second format, said second format being different from the first format; and

means for transmitting the using condition information described in the second format.

2. A method for managing using condition information corresponding to content data, said method comprising steps of:

receiving said using condition information described in a first format, the using condition information indicating usage rules corresponding to the content data;

converting said first format of said using condition information into a second format, said second format being different from the first format, and

transmitting the using condition information described in the second format.

3. A recording medium having stored therein a program for managing using condition information corresponding to content data, said program comprising:

means for receiving said using condition information described in a first format, the using condition information indicating usage rules corresponding to the content data;

means for converting said first format of said using condition information into a second format, said second format being different from the first format; and

means for transmitting the using condition information described in the second format.

19. A data processing apparatus for managing using condition information corresponding to content data, said data processing apparatus comprising:

means for receiving said using condition information described in a first format, the using condition information indicating usage rules corresponding to the content data; and

means for converting said first format of said using condition information into a second format, said second format being different from the first format,

wherein the using condition information includes at least one item comprising an item name and a value corresponding to the item name and the using condition information described in the second format is substantially equal in meaning to the using condition information described in the first format.

20. A method for managing using condition information corresponding to content data, said method comprising steps of:

receiving said using condition information described in a first format, the using condition information indicating usage rules corresponding to the content data; and

converting said first format of using condition information into a second format, said second format being different from the first format, wherein

the using condition information includes at least one item comprising an item name and a value corresponding to the item name and the using condition information described in the second format is substantially equal in meaning to the using condition information described in the first format.

21. A computer readable medium that is encoded with computer readable instructions configured to implement a process when executed by a processor, said process comprising steps of:

receiving the using condition information described in a first format, the using condition information indicating usage rules corresponding to content data; and

converting said first format of using condition information into a second format, said second format being different from the first format, wherein

the using condition information includes at least one item comprising an item name and a value corresponding to the item name and the using condition information described in the second format is substantially equal in meaning to the using condition information described in the first format.

22. The apparatus for managing using condition information of claim 1, further comprising:

means for decrypting the using condition information described in the first format; and

means for encrypting the using condition information described in the second format.

23. The apparatus for managing using condition information of claim 1, wherein the using condition information includes a limit of reproductions of the content data.

24. The apparatus for managing using condition information of claim 1, wherein the using condition information includes a period of time.

25. The apparatus for managing using condition information of claim 1, wherein the using condition information includes cost data.

26. An apparatus for managing using condition information corresponding to content data, comprising:

a receiver configured to receive said using condition information described in a first format, the using condition information indicating usage rules corresponding to the content data; and

a converter configured to convert said first format of said using condition information into a second format, said second format being different from the first format.

27. The apparatus for managing using condition information of claim 26, further comprising:

a decryption device configured to decrypt the using condition information described in the first format.

28. The apparatus for managing using condition information of claim 27, further comprising:

an encryption device configured to encrypt the using condition information described in the second format; and

a transmitter configured to transmit the encrypted using condition information described in the second format.

29. The apparatus for managing using condition information of claim 26, wherein the using condition information includes a limit of reproductions of the content data.

30. The apparatus for managing using condition information of claim 26, wherein the using condition information includes a period of time.

32. The apparatus for managing using condition information of claim 26, wherein the using condition information includes cost data.

32. An apparatus for managing using condition information corresponding to content data, comprising:

means for receiving using condition information described in a first format, the using condition information controlling usage rules of the content data;

means for converting the using condition information described in the first format into using condition information described in a second format the using condition information described in the first format into using condition information described in a second format, said second format being different from the first format; and

means for transmitting the using condition information described in the second format.

33. A manager for managing using condition information corresponding to content data, comprising

means for receiving using condition information described in a first format, the using condition information controlling usage rules of the content data distributed from contents server;

means for converting the using condition information described in the first format inot using condition information described in a second format; and

means for transmitting the using condition information described in the second format to another manager compliant with the second format.

IX. EVIDENCE APPENDIX

NONE

X. RELATED PROCEEDINGS APPENDIX

NONE